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D.R. Horton, Inc., DHI Mortgage Company, Ltd,
LP., Donald Horton, Donald Tomnitz, Michael
Mason, Daniel Callihan, Annie Schankin and James
Frasure

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PATRICE A. MISSUD, JULIE D.
MISSUD,

Plaintiff,

vs.

D.R. HORTON, INC.; DHI MORTGAGE
COMPANY, LTD, LP.; DONALD
HORTON; DONALD TOMNITZ;
MICHAEL MASON; DANIEL
CALLIHAN; ANNIE SCHANKIN;
JAMES FRASURE; and DOES 1-200,

Defendants.

Case No. C07-2625 JL

**DECLARATION OF DAVID T. MORICE
IN SUPPORT OF MOTION TO DISMISS**

Date: September 5, 2007
Time: 9:30 a.m.
Judge: Hon. James Larson

Wendel, Rosen, Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607-4038

1 I, David T. Morice, declare:

2 1. I am, and at all times relevant herein was, Vice President and Legal Counsel of
3 D.R. Horton, Inc. The following facts are within my personal knowledge and if called upon as a
4 witness I could and would testify competently thereto.

5 2. In my capacity as Vice President and Legal Counsel, I am familiar with the
6 corporate structure of D.R. Horton, Inc., as well as the division of operations between D.R.
7 Horton, Inc., and its wholly-owned subsidiaries, including DHI Mortgage Company, Ltd.

8 3. D.R. Horton, Inc. is incorporated in Delaware, with its headquarters located in Fort
9 Worth, Texas. D.R. Horton, Inc. is a homebuilder which constructs and sells high quality single-
10 family homes. D.R. Horton, Inc. does business in Nevada. However, D.R. Horton, Inc. has no
11 offices in California and conducts no business there.

12 4. D.R. Horton, Inc. was the seller of 1353 Romanesca Drive, Henderson, Nevada to
13 Patrice Missud and his wife ("Missud Transaction"). A copy of the Offer and Acceptance and
14 Receipt for Deposit is attached as **Exhibit A**.

15 5. D.R. Horton, Inc., like many builders, has in-house lending companies to assist
16 home buyers with their mortgage needs. DHI Mortgage Company, Ltd., formerly known as CH
17 Mortgage Company I, Ltd., was the in-house lending company involved in the Missud
18 Transaction.

19 6. DHI Mortgage Company, Ltd. is a Texas limited partnership and a wholly-owned
20 subsidiary of D.R. Horton, Inc. Its general partner is DHI Mortgage Company GP, Inc., a
21 corporation qualified to do business in Nevada and California. At the time of the Missud
22 Transaction, CH Mortgage Company I, Ltd. operated in the state of Nevada where Missud
23 purchased the Henderson, Nevada home.

24 7. **D.R. Horton, Inc. has been dismissed from three separate, earlier lawsuits**
25 **filed by the plaintiff Mr. Missud in the Superior Court of the State of California, County of**
26 **San Francisco (in Case Nos. CGC-05-444247, CGC-05-447499 and CGC 06-457207) for lack**
27 **of personal jurisdiction over it in the California courts.**

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1 8. Mr. Missud's three previous lawsuits have also been dismissed as against the
2 other defendants in those actions as well—DHI Mortgage Company, Ltd., Donald Horton,
3 Donald Tomnitz, James Frasure, Michael Mason, Daniel Callihan and Annie Schankin—for
4 lack of personal jurisdiction over them in the California courts.

5 9. In this lawsuit, plaintiffs have sued Donald Horton and Donald Tomnitz. Mr.
6 Horton is the Chairman of the Board of Directors of D.R. Horton, Inc. In his capacity as
7 Chairman, he would not ordinarily be involved in the day to day operations of the company's
8 sales offices or affiliated lenders. Mr. Tomnitz is Vice Chairman of the Board of Directors of
9 D.R.. Horton, Inc. and the Chief Executive Officer and President of D.R. Horton, Inc. As with
10 Mr. Horton, Mr. Tomnitz would not in the ordinary course of his corporate responsibilities have
11 any involvement in the day to day operations of the company's sales offices or affiliated lenders.
12 Based on my review of documentation relating to the Missud Transaction and information
13 received from individuals involved in the transaction, neither Mr. Horton nor Mr. Tomnitz had
14 any involvement in the transaction. Neither Mr. Horton nor Mr. Tomnitz reside or work in
15 California.

16 I declare under penalty of perjury and the laws of the United States of America that the
17 foregoing is true and correct.

18 Dated: July 26, 2007


David T. Morice